

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

2017 JAN -6 AM 10:53

STEPHAN HARRIS, CLERK
CHEYENNE

Page 2

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF

HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court	District of Wyoming	<i>17-CV-04-S</i>
Name (under which you were convicted): <i>Rogelio Munoz Rodriguez Jr</i>	Docket or Case No.: <i>5709</i>	
Place of Confinement: <i>Park County Detention Center</i>	Prisoner No.:	
Petitioner (include the name under which you were convicted) <i>Rogelio Munoz Rodriguez Jr</i>	Respondent (authorized person having custody of petitioner) <i>Park County Detention Center</i>	v.
The Attorney General of the State of WY		

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

Cody Wyoming Circuit Court

(b) Criminal docket or case number (if you know): *5709*

2. (a) Date of the judgment of conviction (if you know): *November 29 2016 Preliminary*

(b) Date of sentencing: *November 29 2016 Preliminary hearing*
case got bounded over to district

3. Length of sentence: *NA*

4. In this case, were you convicted on more than one count or of more than one crime? Yes No

5. Identify all crimes of which you were convicted and sentenced in this case: *NA*

6. (a) What was your plea? (Check one)

(1) Not guilty
(2) Guilty

(3) Nolo contendere (no contest)
(4) Insanity plea

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? *not guilty to delivery of controlled sub*

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes No

Park County Wyoming

Page 3

8. Did you appeal from the judgment of conviction?

Yes No

9. If you did appeal, answer the following:

(a) Name of court: in the Circuit Court Fifth Judicial District

(b) Docket or case number (if you know): 5209

(c) Result: bound over to district

(d) Date of result (if you know): November 29 2016

(e) Citation to the case (if you know): NA

(f) Grounds raised: NA

(g) Did you file a petition for certiorari in the United States Supreme Court?

Yes No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? Yes No

11. If your answer to Question 10 was "Yes," give the following information: Park County Wyoming

(a) (1) Name of court: in the Circuit Court Fifth Judicial District

(2) Docket or case number (if you know): CO-2016-230-COD

(3) Date of filing (if you know): December 15 2016

(4) Nature of the proceeding: motion for Dismissal Pro-se

(5) Grounds raised: Due Process rights Violated Violation of Constitution / Rights

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes No

(7) Result: NA

(8) Date of result (if you know): NA

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes No

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes No

(2) Second petition: Yes No

(3) Third petition: Yes No

Page 4

(d) If you did not appeal to the highest state court having jurisdiction, explain why you did not: _____

N/A

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

Please go to Ground One

yellow Stone County Billings Montana

GROUND ONE: Violation of extradition rights

Page 5

- (a) Supporting facts (Briefly summarize your claim. You may provide additional argument and legal citations in a separate supporting memorandum): get extradited without signing a Extradition waiver

- (b) If you did not exhaust your state remedies on Ground One, explain why: Park County came to pick me up

- (c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes No

(2) If you did not raise this issue in your direct appeal, explain why: not extradited

- (d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: NA

Name and location of the court where the motion or petition was filed: NA

Docket or case number (if you know): 2175

Date of the court's decision: 1/6/17

Result (attach a copy of the court's opinion or order, if available): NA

(3) Did you receive a hearing on your motion or petition? Yes No

(4) Did you appeal from the denial of your motion or petition? Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: NA

Docket or case number (if you know): 2175

Date of the court's decision: 1/6/17

Result (attach a copy of the court's opinion or order, if available): NA

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: because Park County came and picked me up

- (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: NA

GROUND TWO: _____

- (a) Supporting facts (Briefly summarize your claim. You may provide additional argument and legal citations in a separate supporting memorandum): _____

- (b) If you did not exhaust your state remedies on Ground Two, explain why: _____

- (c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes No
(2) If you did not raise this issue in your direct appeal, explain why: _____

- (d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes No
(2) If your answer to Question (d)(1) is "Yes," state:
Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (3) Did you receive a hearing on your motion or petition? Yes No
(4) Did you appeal from the denial of your motion or petition? Yes No
(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes No
(6) If your answer to Question (d)(4) is "Yes," state:
Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

- (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: _____

GROUND THREE: _____

- (a) Supporting facts (Briefly summarize your claim. You may provide additional argument and legal citations in a separate supporting memorandum): _____

- (b) If you did not exhaust your state remedies on Ground Three, explain why: _____

- (c) Direct Appeal of Ground Three:

- (1) If you appealed from the judgment of conviction, did you raise this issue? Yes No
(2) If you did not raise this issue in your direct appeal, explain why: _____

- (d) Post-Conviction Proceedings:

- (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes No

- (2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (3) Did you receive a hearing on your motion or petition? Yes No

- (4) Did you appeal from the denial of your motion or petition? Yes No

- (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes No

- (6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

- (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

GROUND FOUR: _____

- (a) Supporting facts (Briefly summarize your claim. You may provide additional argument and legal citations in a separate supporting memorandum): _____

- (b) If you did not exhaust your state remedies on Ground Four, explain why: _____

- (c) Direct Appeal of Ground Four:

- (1) If you appealed from the judgment of conviction, did you raise this issue? Yes No
(2) If you did not raise this issue in your direct appeal, explain why: _____

- (d) Post-Conviction Proceedings:

- (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes No

- (2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (3) Did you receive a hearing on your motion or petition? Yes No

- (4) Did you appeal from the denial of your motion or petition? Yes No

- (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes No

- (6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: _____

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. _____

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

Page 10

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging?

Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes No

Please go to Question 18

Page 11

- 18. TIMELINESS OF PETITION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.* _____

* The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”) as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

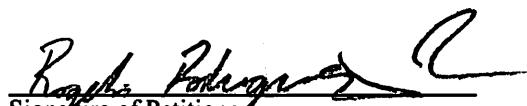
(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: impunitive damages Page 12
loss wages, defamational character, slander mental anguish
or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. I further declare under penalty of perjury that this Petition for Writ of Habeas Corpus was placed in the institutional mailing system or deposited with prison officials on _____ (month, day, year).
I attest that first-class postage has been prepaid.

Executed (signed) on _____ (date).



Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

